local area to which this Act may be applied is situated, or to any class of persons carrying on any petty trade, dealing or industry in such local area which the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, [1] exempt from the tax imposable under section 3 * * * [2].

## SCHEDULE.

(*Referred to in section 3 of this Act.*)

TAX ON CARRIAGES, COACHES, VANS, CARTS, HACKERIES, HORSES AND PONIES.

| | | | | |
|---|---|---|---|---|
| 1. For every four-wheeled vehicle on springs ... | a rate not exceeding | Rs. | 10 | per quarter. |
| 2. For every two-wheeled vehicle on springs ... | ditto | „ | 6 | ditto. |
| 3. For every cart or hackery drawn by bullocks ... | ditto | „ | 6 | ditto. |
| 4. For every horse, or pony of the height of 12 hands or upwards ... | ditto | „ | 5 | ditto. |

# THE KARÁCHI TRAMWAYS ACT, 1883.

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[1] For notifications exempting persons from the tax, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 607.

[2] The words "of this Act," were repealed by the Bombay General Clauses Act, 1886 (Bom Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

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SCHEDULE.

## BOMBAY ACT No. II OF 1883.[1]

[*10th April, 1883.*]

## An Act to authorize the making and to regulate the working of Street Tramways in Karáchi.

**Preamble.** WHEREAS the Commissioners of Karáchi Municipal District, hereinafter called the Municipality, by an agreement dated the 21st day of April, 1882, for the considerations therein expressed, granted to Edward Davis Mathews, and his assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Karáchi upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule * * *[2];

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 83; and for Proceedings in Council, *see ibid*, 1883, p. 7.

[2] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

and whereas the said grantee is desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Karáchi and the suburbs of Karáchi, and by such other routes, as may hereafter be approved;

and whereas the objects of this Act cannot be attained without the authority of the Legislature;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Karáchi Tramways Act, 1883:

Commencement.

and it shall come into force from the date on which it may be published in the Sindh Official Gazette with the assent of the Governor General.

Meaning of "tramway."

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways may be made in accordance with the agreement between the Municipality and the grantee.

3. Subject to the provisions of this Act, and of the said agreement, so far as the same is not inconsistent with anything in this Act, the grantee may make and maintain in Karáchi a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts connections and lines (but in the case of sidings and turnouts only in such places as the Municipality may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Municipality and sanctioned by the Commissioner in Sindh:—

1st, a tramway from a point opposite the carriage stand on the Old Post Office Square, Sadr Bázar along Preedy Road, Garden Road and Bandar Road to Keamari, and

2nd, from a point opposite the City Station of the [1] Sindh, Punjab and Delhi Railway to the Native Jetty crossing the afore-named line to Keamari at a point near the junction of the McLeod and Bandar Roads.

Application of Act to suburban tramways.

4. In the event of any other tramway or tramways on other routes in Karáchi, or in the suburbs of Karáchi, being from time to time approved by the Municipality for the said suburbs, as the case may be, and sanctioned by Government and undertaken by the grantee, notice thereof, specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipality and the grantee in respect thereof, shall thereupon be published [2] in the Sindh Official Gazette, and upon such publication all the provisions of this Act, so far as the same may be

[1] Now known as the North-Western Railway.

[2] For notifications authorizing the construction of a new line of tramway, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 607 to 610.

applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto as if the said routes had been particularly specified in this Act, and as if the agreement, if any, in reference thereto had been included in the schedule.

[1] * * *

Form in which tramways are to be constructed and maintained.

5. Every tramway shall be constructed on a gauge not exceeding four feet, or on such lesser gauge as may be agreed upon between the Municipality and the grantee, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the Municipality and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Engineer to the Municipality. No vehicle used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side.

No tramway to be opened without certificate from Engineer.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Municipality to be fit for such traffic.

Carriages how to be worked.

7. The cars and carriages of the grantee on the lines of the tramway shall be worked with such power, animal or mechanical, as the grantee may think suitable: Provided that no steam-carriages shall be used without the special consent of the Municipality, to be obtained in special general meeting of the Commissioners, and without the sanction of the Governor of Bombay in Council.

Grantee may use tramway carriages with flange wheels.

8. The grantee may use on his tramways carriages with flange-wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, he shall have the exclusive use of his tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Grantee may fix and demand fares.

9. The grantee shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of his tramways, or for the carriage of goods by his tramways: Provided that the rate of fare for each person or parcel shall, for any distance not exceeding

[1] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act of 1904), Vol. IV of this Code.

three miles, not exceed four annas, and for any greater distance shall not exceed the same proportion.

Printed list of fares, etc., to be placed in carriages.

**10.** A printed list in English, Arabic, Sindhi and Gujaráthi of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all [1] bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantee upon any of his tramways.

Such list and printed copy as aforesaid shall be published in the Sindh Official Gazette at the expense of the grantee.

Fares how to be paid.

**11.** The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by notice to be annexed to the list of fares, from time to time appoint with the approval of the Municipality.

Powers to break up streets.

**12.** The grantee from time to time, for the purpose of constructing and maintaining any tramways under this Act or any part or parts thereof respectively, may open and break up the soil and pavement of the streets, roads or bridge, and therein lay sleepers and rails, and repair, alter or remove the same ; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which he shall from time to time deem necessary for constructing and maintaining his tramways, subject to the following regulations :—

*1st.*—He shall give to the Municipality notice in writing of his intention to open or break up any such street, road or bridge, specifying the time at which he will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work, except in cases of emergency arising from defects of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

*2nd.*—He shall not open or break up or alter the level of any such street, road or bridge, except under the superintendence and to the reasonable satisfaction of the Engineer to the Municipality, for which superintendence the grantee shall pay all reasonable expenses, unless the Engineer to the Municipality neglect to give such superintendence at the time specified in the notice or discontinue the same during the work.

[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 611 and 615.

*3rd.*—He shall not, without the consent of the Engineer to the Municipality, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

*4th.*—He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Engineer to the Municipality otherwise consents in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Engineer to the Municipality, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

*5th.*—He shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

*6th.*—He shall make good all damage done to the gas and water pipes and sewers, whether belonging to the Municipality or to private individuals, by the disturbance thereof.

*7th.*—If, by any such operations as aforesaid, the grantee interrupts the supply of water or gas in or through any main or main pipe, he shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

**Grantee to keep the tramway roads in proper repair.**

**13.** The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Engineer to the Municipality shall direct, the rails of which any of his tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs it shall not be necessary to give notice thereof to the Municipality.

**Grantee not to obstruct ordinary traffic.**

**14.** In exercising the powers given to him by the last two preceding sections the grantee shall arrange his work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Engineer to the Municipality.

**Reservation of right of public to**

**15.** Nothing in this Act, or in any bye-law made under this Act, shall take away or abridge the right of the public to pass along or across every or

any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable to run on a grooved rail. use roads.

16. Notwithstanding anything in this Act contained, the grantee shall not acquire, or to be deemed to acquire, any right other than that of user of any road along or across which he lays any tramway. Right of user only.

17. If the grantee fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 [1] * * * he shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against him) upon complaint of the Municipality or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred. Penalty for failure of grantee to comply with provisions of Act.

18. If any person wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable for a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court. Penalty for obstructing grantee in exercise of his power.

19. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:— Penalty for interfering with tramway.

interferes with, removes or alters any part of a tramway of the grantee, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways:

or knowingly aids or assists in the doing of such thing:

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

20. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional Penalty for avoiding payment of proper fare.

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Servant of grantee may arrest persons avoiding payment of fare.

**21.** It shall be lawful for any servant of the grantee, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him, and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

**22.** No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantee to refuse to take any parcel that he may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Bye-laws by Municipality.

**23.** The Municipality in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such regulations as to the rate of speed, number of passengers, and mode of use of the tramways and motive power as the convenience and safety of the public may require, and as are not inconsistent with this Act.

Grantee may make certain regulations.

The grantee may, subject to confirmation as aforesaid, from time to time make such regulations—

for preventing the commission of any nuisance in or upon any carriage or in or against any premises belonging to him; and

for regulating the travelling in or upon any carriage belonging to him as are not inconsistent with this Act.

And for better enforcing the observance of all or any of such regulations it shall be lawful for such Municipality and grantee respectively, subject to the confirmation thereof by the Local Government, to make [1] bye-laws for

[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 611 and 615.

all and any of the aforesaid purposes, and from time to time to repeal or alter such bye-laws and make new bye-laws: Provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the city of Karáchi. Notice of the making of any such bye-laws shall be published by the Municipality in the Sindh Official Gazette.

Penalty for breach of bye-laws.

24. Any person offending against any [1]bye-law made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees to be imposed in such bye-laws as a penalty for such offence.

Power to Municipality to license drivers, conductors, etc.

25. The Municipality shall have the like power of making and enforcing rules and regulations and of granting license with respect to all drivers, conductors and other persons having charge of the carriages using the tramways.

Grantee to be responsible for all damages.

26. The grantee shall be answerable for all accidents, damages and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his works or carriages, and shall save harmless the Municipality and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Municipality and police to regulate traffic on roads.

27. Nothing in this Act shall limit the powers of the Municipality or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Municipality or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

The Municipality shall not be liable to pay to the grantee any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads.

28. Nothing in this Act shall be construed to prevent the Municipality, in the exercise of the powers conferred upon them under [2]Bombay Act VI of 1873, from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same: Provided—

(1) that they shall cause as little detriment or inconvenience to the grantee as circumstances admit;

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[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898. pp. 611 and 615.

[2] *See* now the Bombay District Municipal Act, 1901 (Bom. Act 3 of 1901), Vol. IV, of this Code, by which Bombay Act VI of 1873 has been repealed.

(2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them, on giving twenty-four hours' previous notice in writing to the grantee;

(3) that before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantee;

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantee at the expense of the Municipality.

Municipality to have right of purchasing tramways after twenty-one years.

29. The Municipality shall have the right of purchasing the tramways, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantee or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council of such amount as to produce, at the rate of interest current on such securities, seven per cent. per annum on the amount of the said invested capital and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantee shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from him.

Grantee may sell his rights

30. At any time the grantee may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of

the said agreement or such of them as shall be then subsisting), and, when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantee under the said agreement and this Act shall be transferred to, vested in and may be exercised by, and shall attach to the person, persons, Corporation or Company, to whom the same has been sold in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantee then already constructed and thereafter to be constructed, instead of the grantee. and powers to other persons.

## SCHEDULE.

ARTICLES OF AGREEMENT made this twenty-first day of April, 1882, between the Commissioners of the Karáchi Municipal District incorporated under [1] Bombay Act VI of 1873 (thereinafter called "The Municipality") of the one part and Edward Davis Mathews, Civil Engineer and Contractor for Public Works of 10 Union Court Chambers, Union Court, Old Broad Street in the city of London (hereinafter called "The Grantee") of the other part. Whereas the Municipality have agreed to grant to the Grantee the right to construct, maintain and use a tramway or tramways in Karáchi upon the terms and conditions hereinafter contained and on the part of the said Municipality to be performed the Grantee for himself, his heirs, executors, administrators and assigns hereby covenants with the Municipality so far as the covenants and agreements hereinafter contained are to be performed by the Grantee and his heirs, executors, administrators and assigns, and the Municipality for and in consideration of the covenants and agreements hereinafter contained and on the part of the Grantee and his heirs, executors, administrators and assigns to be performed hereby covenant with the Grantee and his heirs, executors, administrators and assigns, so far as the covenants and agreements hereinafter contained are to be performed by the Municipality in manner following, that is to say :—

1. The Municipality grant to the Grantee and his heirs, executors, administrators and assigns (all which persons are hereinafter included in the words "The Grantee") the right to construct, maintain and use a tramway or tramways with single or double lines and with all necessary sidings, turnouts, connections and lines of whatever nature may be required to connect the said tramway or tramways with the Depôts of the Grantee on the following routes and between such other places and by such other routes as may be hereafter approved of by the Municipality, *viz.*: from a point opposite the

[1] *See* now the Bombay District Municipal Act, 1901 (Bom. Act 3 of 1901), Vol. IV of this Code by which this Act has been repealed.

Carriage Stand on the Old Post Office Square, Sadr Bázár, along Preedy Road, Government Garden Road and Bandar Road to Keamari; and from a point opposite the City Station of the [1]Sindh, Punjab and Delhi Railway to the Native Jetty, crossing the Keamari line at a point near the junction of the McLeod and Bandar Roads.

These lines are more particularly delineated on a [2] plan annexed hereto and thereon shewn by red lines.

2. The Grantee shall moreover (subject to clause 3) have the exclusive right of laying and constructing, maintaining and using a tramway or tramways within the limits of the Municipality on the terms contained in these presents, provided always that if the Grantee shall at any time or times refuse or neglect for six months to accept any proposal by the Municipality for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1, which the Municipality may consider necessary or desirable, it shall be lawful for the Municipality to employ any other person or company for the purposes aforesaid or any of them and to make such arrangements as they may think proper independently of the Grantee, and that in all such cases as aforesaid that these additional lines which the Grantee does not take shall have running powers over the Grantee's lines, provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the Grantee, and shall conform to such rules for the regulation of that traffic as may be drawn up by the Grantee and approved by the Municipality:

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the Grantee's line.

3. The Grantee shall construct all the lines mentioned in clause 1 in such a manner as to be available for use within two-and-a-half years from the passing of the necessary Act by the Legislature, failing which it shall be lawful for the Municipality to withdraw and cancel the concessions and rights granted by these presents to the Grantee as regards the lines remaining unconstructed: Provided always that the Grantee shall not be compelled to construct a greater length of line than five and one-half miles within the said term of two-and-a-half years.

4. Any tramway or tramways to be constructed under this agreement shall be constructed on a gauge of four feet, and the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and, before the work of construction is

[1] Now called the North-Western Railway.
[2] This plan is not reproduced in this Volume.

begun, drawings and a specification shall be submitted to the Engineer and Secretary to the Municipality and be approved by him, and the cars and carriages intended to run on the said tramways shall be such as shall have been approved by the Engineer and Secretary to the Municipality.

5. If the Municipality shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized shall be laid the Grantee shall alter the rails so that the uppermost surface thereof shall be on a level with the surface of the road so altered : Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

6. The cars and carriages of the Grantee on the tracks of the said Tramways shall be worked with such power, animal or mechanical, as the Grantee may think suitable : Provided that the Municipality shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said power and tracks as the convenience and safety of the public using the streets may require.

7. The rails, materials, implements and erections placed and erected by the Grantee on the streets and roads under the powers hereby granted shall be and remain the property of the Grantee, but he shall not remove or displace the same or any of them or any part or parts thereof (except for the purpose of renewing or repairing the same) without the consent in writing of the Municipality.

8. Except as provided in clause 2 no person other than the Grantee may use upon any tramway or tramways to be made under this agreement carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

9. The Grantee shall have the power to fix from time to time the rates of fares for carrying passengers and goods in the said cars or carriages provided that the rate for each passenger or parcel shall for any distance not exceeding three miles not exceed four annas, and shall not for any greater distance exceed the same proportion.

10. The Grantee may (for the purpose of constructing and maintaining any tramways under this agreement) under such superintendence as is hereinafter specified open and break up the soil and pavement of the several public and other streets and bridges in Karáchi, and therein lay rails and all necessaries and from time to time repair, alter or remove the same and may for the purposes aforesaid remove and use all earth and materials in such streets and bridges and do in and on such streets and bridges all other acts which he

shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions:—

*1st.*—He shall give to the Engineer of the Municipality notice in writing of his intention to open or break up any such street or bridge specifying the time at which he will begin to do so and the portion of the road proposed to be opened or broken up, such notice to be given at least three days before the commencement of the work.

*2nd.*—He shall not open or break up or alter the level of any road, street or bridge except under the inspection and to the reasonable satisfaction of the Engineer to the Municipality.

*3rd.*—He shall not without the consent of the Engineer to the Municipality open or break up at any one time a greater length than a half of a mile on any one line of tramway.

*4th.*—He shall with all convenient speed complete the work for which the said street or bridge shall be broken up and fill in the ground and make good the surface and to the satisfaction of the Engineer to the Municipality restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

*5th.*—He shall make good all damage done to the gas and water pipes and sewers whether belonging to the Municipality or to private individuals by the disturbance thereof.

*6th.*—He shall in the meantime when such street or bridge is broken up cause it to be watched and to be properly lighted at night.

**11.** The Grantee shall at his own expense at all times maintain and keep in good condition and repair, to the reasonable satisfaction of the Engineer to the Municipality, the rails of which any of the tramways shall for the time being consist and also so much of any street or bridge whereon any tramway belonging to him is laid as lies between the rails of the tramways, and in the case of double lines the portion of the road between the tramways and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs, it shall not be necessary to give notice thereof to the Municipality.

**12.** In exercising the powers given to him by clauses 10 and 11 the Grantee shall arrange his work so as to afford the least possible obstruction to

the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Municipality, provided always that the Municipality shall keep all gas and water pipes and other pipes or works which may hereafter be laid down as far as practicable from the lines of tramway.

13. If the Grantee shall commit any breach of clauses 10, 11 and 12 it shall be lawful for the Municipality in their discretion where such breach shall be in the execution of any work or repairs at any time after 7 days' notice to the Grantee themselves to do and execute such work or repairs and the expenses incurred by the Municipality in so doing including the cost of superintendence shall be repaid to them by the Grantee, and the certificate of the Engineer to the Municipality as to such cost shall be conclusive.

14. If any person sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 and 11 the same shall be made good by the Grantee, and in the event of any suit being instituted against the Municipality in respect of any of the matters hereinbefore mentioned, the Grantee shall within 14 days from receipt of notice thereof from the Municipality settle the same, but if the Grantee chooses to defend such suits he shall be at liberty to do so on his undertaking to indemnify the Municipality against all losses, damages and expenses in respect thereof, provided always that if the Grantee fails to settle such suit or to indemnify the Municipality as is hereinbefore provided, it shall be lawful for the Municipality to settle the same without any consent or concurrence on the part of the Grantee and the sum which they shall have to pay in making such settlement and with all expenses to which they may be put shall be recoverable as a debt from the Grantee.

15. If at any time after the opening of any tramway for traffic the Grantee shall continue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Grantee), it shall be lawful for the Municipality without any previous notice to the Grantee to remove the tramway or any part thereof so discontinued. And the Grantee shall pay to the Municipality the cost of such removal and of the making good of such street or

bridge through which the said tramway shall have been made and the certificate of the said Engineer to the Municipality as to such cost shall be conclusive.

16. The Grantee will if required by the Municipality before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents deposit in the Bank of Bombay or other approved Bank in Karáchi in the name of the Municipality the sum of Rupees 5,000 or in his option Promissory Notes of the Government of India or Municipal Bonds of the nominal value of Rupees 5,000, and the same will remain so deposited until the completion by the Grantee of the lines of tramway hereby sanctioned. But all interest accruing on the said sum or the said notes shall be credited to the Grantee and subject as next hereinafter mentioned be paid to him as the same shall accrue due, provided nevertheless that the Municipality shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or bonds or out of the proceeds of sale of the said notes or bonds all moneys to which they may be entitled under these presents.

17. In consideration of the concession hereby granted, the Grantee shall pay to the Municipality a sum at the rate of 500 rupees per annum per mile of running tramway whether double or single line, all necessary sidings, turn outs, connections or loops of whatsoever kind being, however, exempt from such mileage rate, and the said sum shall be payable half-yearly and shall form a first charge on the undertaking, and the date on which such sum on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic. The sum so payable as aforesaid shall be in lieu of all rates, taxes, and assessments of any kind whatsoever made by or payable to the Municipality in respect of the Tramways, Horses, Carriages, Engines, Depôts, Stables, and any other property or effects, provided always that no lines or sidings over which passengers or goods are not carried for hire connecting the traffic lines with the stables, carriage sheds, or depôts or other property of the Grantee shall be included in mileage for which such sum shall be payable.

18. If the said sum or any part thereof shall not be paid on due date, the Grantee shall be liable to pay interest thereon at the rate of 8 per cent. per annum from the due date until payment.

19. From and after the commencement of 15th year of this contract to the end of the twenty-first, the Grantee shall not be at liberty to enter upon any fresh engagements or expenditure which would increase his capital account in connection with this contract without first notifying his intention to the

Municipality and obtaining their approval thereof and sanction thereto in writing.

20. The Municipality shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the date of opening the first section for traffic upon declaring its intention so to do by notice in writing to be given to the Grantee not less than six months before the expiration of the said 21 years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said 21 years upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the Grantee or Securities of the Government of India, or Securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council of such amount as to produce at the rate of interest current on such Securities seven per cent. per annum on the amount of the said invested capital, and if the consideration for such purchase shall be given in such Securities as aforesaid, the Grantee shall be entitled to have in addition a first mortgage of all the property assets and profits of the tramway or tramways which shall have been purchased from him.

21. In the event of the Municipality failing to declare its intention as above provided to purchase the property of the Grantee, the terms of this contract shall continue in force.

22. The provisions hereinbefore contained shall so far as applicable apply to all tramways to be constructed by the Grantee by any route or routes to be hereafter fixed by the Municipality or under clauses 1 and 3 of these presents and to the works connected with or incidental to such tramways.

23. The date of the commencement of this contract or concession shall be the date on which notice of the confirmation hereof by the Bombay Legislature shall be given to the Grantee or his representative in Karáchi.

24. Unless the Grantee shall have commenced the work of laying down the said tramways within 12 months from the said date, the Municipality shall be at liberty to cease and determine this contract and to enter into arrangements with any other person and persons for the construction of tramways.

25. Nothing in this agreement shall take away or affect any power which the Municipality may have by law to open or break up or to widen, alter, divert or improve any street or road, provided always:—

*1st.* That they shall cause as little inconvenience to the Grantee as circumstances will admit.

*2nd.*—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' notice in writing to the Grantee.

*3rd.*—That before they commence any work whereby the traffic on the tramways will be interrupted they shall, except in cases of urgency (in which cases no notice shall be necessary), give to the Grantee notice of their intention to commence such work specifying the time at which they will begin to do so, such notice to be given twenty-four hours at least before the commencement of the work.

*4th.*—That in the event of their so interfering with or stopping the running of any tramway under this clause an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the sum hereinbefore reserved and payable by the Grantee in lieu of Municipal rates, taxes and assessments.

*5th.*—That any alteration of the position of any of the tramways or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the Grantee at the expense of the Municipality.

26. If any doubt, difference or dispute shall arise between the Grantee and the Municipality touching the construction of these presents or anything herein contained or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the Grantee and the other by the Municipality, within one calendar month after either of them shall have made to the other a requisition to that effect in writing, and should the Arbitrators fail to agree, they shall refer the question at issue to the decision of an Umpire to be chosen by the said Arbitrators, and the decision of such Arbitrators if they agree or of such Umpire if they disagree shall be final, and in case either party shall neglect or refuse to appoint an Arbitrator within the specified time, the Arbitrator appointed by the other party shall make a decision alone, and the decision of such Arbitrators, Umpire or Arbitrator as the case may be shall be effectual and binding upon both parties.